

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 021756-014400US	
I hereby certify that this correspondence is being filed via EFS-Web with the United States Patent and Trademark Office, Attn: Mail Stop AF, on <u>January 22, 2009</u> . TOWNSEND and TOWNSEND and CREW LLP Signature <u>/Joni E. Peterson/</u> Typed of printed name <u>Joni E. Peterson</u>		Application Number 10/682,252	Filed October 9, 2003
		First Named Inventor Sanjay P. Ghatare	
		Art Unit 2165	Examiner Farhan M. Syed
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a Notice of Appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="width: 45%;"> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>52,471</u></p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. _____</p> </div> <div style="width: 45%; text-align: center;"> <p><u>/William J. Daley/</u> Signature</p> <p><u>William J. Daley</u> Typed or printed name</p> <p><u>(303) 571-4000</u> Telephone number</p> <p><u>January 22, 2009</u> Date</p> </div> </div> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>			
<input type="checkbox"/> *Total of _____ forms are submitted.			

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**STATEMENT OF REASONS IN
SUPPORT OF PRE-APPEAL BRIEF
REQUEST FOR REVIEW**

TOWNSEND and TOWNSEND and CREW LLP

By: /Joni E. Peterson/
Joni E. Peterson

PATENT
Attorney Docket No.: 021756-014400US
OID-2005-174-01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Sanjay P. Ghatare

Application No.: 10/682,252

Filed: October 9, 2003

For: TRANSLATING DATA ACCESS
REQUESTS

Customer No.: 51206

Confirmation No.: 8266

Examiner: Farhan M. Syed

Art Unit: 2165

**STATEMENT OF REASONS IN
SUPPORT OF PRE-APPEAL BRIEF
REQUEST FOR REVIEW**

***Via EFS-Web
Mail Stop AF***
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This statement is submitted in support of the Pre-Appeal Brief Request for Review, that is submitted herewith. The Applicant respectfully requests review of the final rejection mailed by the U.S. Patent Office for the above-identified application on September 23, 2008 (“the Final Office Action”).

A Notice of Appeal is being filed concurrently herewith.

1. Status of Claims

Claims 1, 10-13, 21, 24, 26-28, 31 and 33-35 stand rejected under 35 U.S.C. § 103(a) as being anticipated by U. S. Patent No. 6,985,912 to Mullins et al. (hereinafter “Mullins”) in view of non-patent literature entitled *An enterprise directory solution with DB2*, by S.S.B. Shi et al., IBM Systems Journal, Vol. 39, No. 2, 2000 (hereinafter “IBM System”). Claims 2, 3, 5, 6, 14, 15, 17, 25, 29, 32 and 36 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Mullins in view of IBM Systems, in view of U. S. Patent No. 5,694,598 to Durand et al. (hereinafter “Durand”). Claims 4, 16, 30, and 37 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Mullins in view of IBM Systems, in view of U. S. Patent No. 6,085,188 to Bachmann et al. (hereinafter “Bachmann”). Claims 7-9 and 18-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Mullins in view of IBM Systems, in view of U. S. Patent No. 5,596,746 to Shen et al. (hereinafter “Shen”). Claim 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Mullins in view of IBM Systems, in view of Durand and further in view of Bachmann.

2. Reasons for Requesting Review**35 U.S.C. § 103 Rejection, Mullins in view of IBM System**

The Applicant respectfully submits that the Office Action does not establish a *prima facie* case of obviousness in rejecting these claims, as amended. Therefore, the Applicant requests reconsideration and withdrawal of the rejection. In order to establish a *prima facie* case of obviousness, all claimed limitations must first be taught or suggested by the prior art. *See, e.g., DyStar Textilfarben GmbH & Co. Deutschland KG v. C.H. Patrick Co.*, 464 F.3d 1356, 1360 (Fed. Cir. 2006). The Office Action must then provide an explicit analysis supporting the rejection. *See KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1741 (2007) (“a patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art”). While the Office Action can use one of several exemplary rationales from the MPEP to support an obviousness rejection under *KSR*, all the rationales still require the Office Action to demonstrate that all the claim elements are shown in the prior art. *See* MPEP §2143. As will be discussed below, the references cited by the Office

Action do not teach or suggest each claimed limitation. For example, none of the references, alone or in combination, teach or suggest determining a relational database from a plurality of data stores to service said request, wherein the plurality of data stores comprises the relational database and at least one LDAP directory.

As noted previously, Mullins “relates in general to enhancing database access and performance when correlating or translating one database to another database or to an object programming application.” (Col. 1, lines 13-16) Mullins references “a mapping system for handling data requested by an object software application model in a manner that is compatible with relational data stores.” (Col. 7, lines 28-31) “The mapping information can be used to map from objects to relational models or vice versa, objects to objects, object to COBAL or vice versa, and object to XML and the like.” (Col. 7, lines 41-44) More specifically, Mullins describes a mapping system that includes “data in the first database format stored in the system; rules for translating from the first format to the second format stored as a separate structure from the data; and means for applying the rules to the data to obtain the second format.” (Col. 13, lines 13-17) That is, the rules of Mullins define the relationships between the objects and the database. (Col. 13, lines 40-48) However, Mullins does not disclose determining a relational database from a plurality of data stores to service said request, wherein the plurality of data stores comprises the relational database and at least one LDAP directory.

In response to these arguments, the final Office Action introduces IBM System and provides the Abstract therefrom. This Abstract notes that “this paper discusses an implementation of LDAP that uses the IBM DATABASE 2TM relational database as the data store and query engine to meet the directory service requirements.” That is, IBM System seems to teach use of a relational database **instead of** an LDAP directory. As such, IBM System seems to teach away from use of a plurality of data stores comprising the relational database and at least one LDAP directory. Therefore, the Applicant contends that the combination of Mullins and IBM Systems does not teach or suggest determining a relational database from a plurality of data stores to service said request, wherein the plurality of data stores comprises the relational database and at least one LDAP directory.

Claim 1, upon which claims 2-12 depend, claim 13, upon which claims 14-20 depend, and claim 21, upon which claims 22 and 23 depend, each recite in part receiving a request to access data for one or more attributes, said request includes said attributes in a first data format and a filter for accessing the data of the attributes and determining a relational database from a plurality of data stores to service said request, wherein the plurality of data stores comprises the relational database and at least one LDAP directory. Neither reference, alone or in combination, teaches or suggests determining a relational database from a plurality of data stores to service said request, wherein the plurality of data stores comprises the relational database and at least one LDAP directory. Rather, Mullins teaches translating one database to another database or to an object programming application while IBM System teaches use of a relational database instead of an LDAP directory.

Similarly, claim 24, upon which claims 25-30 depend, and claim 31, upon which claims 32-37 depend, both recite in part a partitioning module receiving access request information from said data source interface, wherein said partitioning module determines a relational database from a plurality of data stores to service said request, wherein the plurality of data stores comprises the relational database and at least one LDAP directory. Neither reference, alone or in combination, teaches or suggests receiving access request information from said data source interface, wherein said partitioning module determines a relational database from a plurality of data stores to service said request, wherein the plurality of data stores comprises the relational database and at least one LDAP directory. Rather, Mullins teaches translating one database to another database or to an object programming application while IBM System teaches use of a relational database instead of an LDAP directory. For at least the previous reasons, Applicant respectfully requests withdrawal of the rejection and allowance of claims 1, 10-13, 21, 24, 26-28, 31 and 33-35.

35 U.S.C. § 103 Rejection, Mullins in view of IBM Systems, in view of Durand

Applicant respectfully requests withdrawal of the rejection and allowance of the claims for at least the reason that claims 2, 3, 5, 6, 14, 15, 17, 25, 29, 32 and 36 each depend upon a base claim that is thought to be allowable as discussed in detail above.

35 U.S.C. § 103 Rejection, Mullins in view of IBM Systems, in view of Bachmann

Applicant respectfully requests withdrawal of the rejection and allowance of the claims for at least the reason that claims 4, 16, 30, and 37 each depend upon a base claim that is thought to be allowable as discussed in detail above.

35 U.S.C. § 103 Rejection, Mullins in view of IBM Systems, in view of Shen

Applicant respectfully requests withdrawal of the rejection and allowance of the claims for at least the reason that claims 7-9 and 18-20 each depend upon a base claim that is thought to be allowable as discussed in detail above.

35 U.S.C. § 103 Rejection, Mullins in view of IBM Systems, in view of Durand and further in view of Bachmann

Applicant respectfully requests withdrawal of the rejection and allowance of the claims for at least the reason that claim 22 depends upon a base claim that is thought to be allowable as discussed in detail above.

For at least these reasons, the Applicants maintain that the rejection is improper and should be withdrawn.

Respectfully submitted,

Date: January 22, 2009

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